THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE D.APPA RAO

WRIT APPEAL NO.203 of 2006

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2nd March 2006

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 31.01.2006 in W.P.M.P.No.27161 of 2005 in W.P.NO.25199 OF 2004 on the file of the High Court.)

Between:

The President, Indian Airlines, Contract Labour Union, Rep. by Mr. G.A. Rudrappa, S/o.Late Gangaiah, 45 years, 2-2-1144/13, Flat No. G-2, New Nallakunta, Hyderabad.

...APPELLANT

AND

1. Indian Airlines Ltd., Police Lines, Begumpet, Hyderabad 500 016, rep.by Deputy General Manager (Personnel).

And seven others.

...RESPONDENTS

THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE D.APPA RAO

WRIT APPEAL NO.203 OF 2006

JUDGMENT: (Per the Hon'ble Mr Justice B.Prakash Rao)

Heard both the sides.

At their request, the Writ Appeal itself is taken up for disposal at the admission stage.

The second respondent in the Writ Petition being W.P.No.25199 of 2004 is the appellant herein, who seeks to assail the interim order dated 31.01.2006 in W.P.M.P.No.27161 of 2005 granted by the learned Single Judge pending the Writ Petition, which was filed by the first respondent, *inter alia*, seeking to assail the order imposing liability against him and also the contractor for the wages to be paid on par with the regular employees.

The learned Single Judge by taking into consideration the undertaking given by the counsel on behalf of the first respondent, granted stay in regard to the payment of wages to the categories of contractual employees.

Having heard the learned counsel on either side and on perusal of the material available on record, it is seen that there is no dispute to the fact that it is only at the instance of the appellant herein; the competent authority has held that the said employees are entitled to the wages on par with the regular employees. However, the primary liability will be on the contractor and it is only when the contractor not being paid the said amount, the liability will pass on to the first respondent. Having regard to the same and admittedly, there is no such joint and several liability fixed as per the order of the competent authority. Unless and until it is shown that the first respondent sought to execute the order for recovery there of, the appellant cannot straight away proceed against the first respondent. There is nothing on record to show that any such steps were taken by the appellant. In view of the same, more so, having regard to the fact that the order under appeal is only an interlocutory and discretionary one, we do not find any merits in the appeal.

Accordingly, the Writ Appeal is dismissed. No costs.

However, it shall be open to the appellant for taking steps for recovery of the amounts against the respondent in the first instance. Liberty is also given to the appellant to move any fresh application in the Writ Petition on showing such recovery of the amounts as already ordered against the contractor.

It is represented on either side that counter affidavit has already been filed and the Writ Petition can as well be taken up for final hearing.

Office is directed to expedite the hearing of Writ Petition No.25199 of 2004.

Post Writ Petition No.25199 of 2004 for ‘Final Hearing’ subject to “Part Heard” on 27.03.2006 before the regular Court hearing the matters.

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(B.PRAKASH RAO, J)

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(D.APPA RAO, J)

2nd March 2006

RRB

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